

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

PETER G. FERRANTI,	:	
Plaintiff,	:	
	:	Civil Action No. 3:04CV339(CFD)
v.	:	
	:	
PAUL GILFILLAN and THE SOCIAL	:	
SECURITY ADMINISTRATION,	:	
Defendant.	:	

ORDER OF DISMISSAL

The plaintiff, Peter Ferranti, brought this action seeking access to his Social Security Administration ("SSA") record pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (the "FOIA") and the Privacy Act, 5 U.S.C. § 552(a) (the "PA"). Ferranti has numerous motions pending before the Court, including: two motions to amend the complaint; two motions for temporary restraining orders; and a motion to seal his amended complaint. [See Docs. ## 19, 20, 21, 22, 23]. On March 15, 2005, before the Court had taken any action on Ferranti's motions, he filed a motion in which he "respectfully requests this Court for its consent to withdrawal his claim, and submits a rebuttal . . . again praying for relief asked of the Court, found in document 20 filed December 23, 2004 [which was a request for a temporary restraining order]." [Doc. # 30]. The government has since filed a response, arguing that the Court should grant Ferranti's request for dismissal pursuant to Fed. R. Civ. P. 41(a), and that this action would render his requests for temporary restraining orders moot. Ferranti has not disputed the government's characterization of his motion to withdraw.¹

I Discussion

¹The government also has filed a memorandum challenging Ferranti's request for a temporary restraining order on the merits.

Ferranti first filed his complaint on February 27, 2004, which he amended as of right on March 17, 2004. In the amended complaint, Ferranti "demand[ed] to make independent review of all file information held by Social Security Administration, pursuant to Title 5 U.S.C. § 552 and § 552a." Although Ferranti has two motions to amend his first amended complaint pending, he also has filed a motion for withdrawal.² The withdrawal motion states that he "respectfully requests this Court for its consent (i.e. consent v. demand) to withdraw his complaint filed February 27, 2004, amended May 17, 2004 [sic]." Since the time the complaint was filed in this action, Ferranti was given access to his file by the SSA. Consequently, in his motion to withdraw, Ferranti states that he "agrees with the defendant in that [this release of information] generally satisfies relief sought, rendering his action moot." Nevertheless, Ferranti leaves dismissal to the discretion of this Court because he perceives a difference between information being released voluntarily by the SSA and information being released by that agency pursuant to a judgment in a FOIA action.

After reviewing the papers in this action, the Court believes that dismissal is warranted on the ground that this Court lacks subject matter jurisdiction because Ferranti's request for relief is now moot. As was recently noted by this Court:

The mootness doctrine is derived from Article III of the Constitution, which provides that federal courts may decide only live cases or controversies. Irish Lesbian and Gay Org. v. Giuliani, 143 F.3d 638, 647 (2d Cir.1998). "This case-or-controversy requirement subsists through all stages of federal judicial proceedings, trial and appellate." Knaust v. City of Kingston, 157 F.3d 86, 88 (2d Cir.1998). "A case becomes moot when interim relief or events have eradicated the effects of the defendant's act or omission, and there is no reasonable expectation that the alleged violation will recur." Irish Lesbian and Gay Org., 143

²Its amended answer, the government noted that Ferranti mistakenly named the head of the local SSA office as a defendant, rather than the agency itself. Thus, Ferranti's two motions to amend his amended complaint sought to correct this error, and were not attempts to add new substantive claims to his action.

F.3d at 647.

Ellis v. Tribune Co., __ F.Supp.2d __, __, 2005 WL 665675 (D.Conn., Mar. 21, 2005). Here, Ferranti has received the relief requested in his amended complaint—access to his SSA file. Consequently, because there is no additional relief that can be provided by this Court, his action is dismissed as moot. See Cook v. Colgate Univ., 992 F.2d 17, 19 (2d Cir. 1993) (students' claims for declaratory and injunctive relief against Colgate University rendered moot by their graduation); Chance v. DeFelippo, __ F.Supp.2d __, __, 2005 WL 794374 (D.Conn. Mar. 25, 2005) (Department of Motor Vehicle's restoration of plaintiff's public service endorsement to his driver's license rendered moot his claim challenging endorsement's removal without notice or hearing); see also Fox v. Board of Trustees, 42 F.3d 135, 140 (2d Cir. 1994) ("the condition of mootness is not a defense that could be waived ..., but rather is a condition that deprives the court of subject matter jurisdiction."). In addition, Ferranti's motions for temporary restraining orders [Docs. ## 20 and 22] are DENIED as moot. The clerk is directed to close the case, without prejudice.

SO ORDERED this 31st day of May 2005, at Hartford, Connecticut.

/s/ CFD

CHRISTOPHER F. DRONEY
UNITED STATES DISTRICT JUDGE